



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: Roger McAulay and Samuel Cohen  
Assignee: E-Cast, Inc.  
Title: Distributed Electronic Entertainment Method and Apparatus  
Application No.: 09/519,008 Filing Date: March 3, 2000  
Examiner: A. Rudy Group Art Unit: 3627  
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San Jose, California  
November 14, 2005

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**AMENDED APPEAL BRIEF UNDER 37 CFR § 41.37**

Dear Sir:

In response to the Notification of Non-Compliant Appeal Brief mailed on October 12, 2005, Appellant submits this Amended Appeal Brief.

Co-filed herewith is a Response to Non-Compliant Appeal Brief containing specific responses to the Examiner's rejections of the original Appeal Brief filed on July 29, 2005, and a Response to Advisory Action requesting reconsideration and entry of previously requested amendments.

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**I. REAL PARTY IN INTEREST**

The real party in interest is Assignee E-Cast, Inc.

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## **II. RELATED APPEALS AND INTERFERENCES**

There are no appeals or interferences known to Appellant, Appellant's legal representative, or the Assignee which will directly affect or be directly affected by or have a bearing on the decision by the Board of Patent Appeals in the pending appeal.

### **III. STATUS OF CLAIMS**

Claims 1-23, 25, 29-30, 32-42, 44-48, 51-72, and 87-95 are pending, rejected, and appealed.

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#### **IV. STATUS OF AMENDMENTS**

The Examiner issued a Final Office Action on February 9, 2005, in which Claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-95 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,751,672 ("Yankowski"). Appellant filed a response on April 8, 2005, in which no amendments were made to the claims. Subsequently, the Examiner issued an Advisory Action on May 6, 2005, in which the request for reconsideration was considered but the pending rejections maintained.

On July 28, 2005, an Amendment After Appeal Under 37 CFR § 1.116 was filed amending Claims 1, 68-71, and 89. These amendments were filed to correct a typographical error in claim 1, and to correct various informalities in claims 68-71 and 89, in order to present the claims in better form for appeal. Appellant notes that the USPTO PAIR system incorrectly indicates that this Amendment was filed on July 26, 2005.

On October 13, 2005, the Examiner issued an Advisory Action Before the Filing of an Appeal Brief in which the proposed amendments in the Amendment After Appeal were refused entry. Co-filed with this paper is a Response to Advisory Action in which Appellant requests reconsideration of entry of the proposed amendments. Therefore, as of the date of the filing of this Amended Appeal Brief, these amendments have not yet been entered. As a result, Appellant is uncertain which version of the claims will be "involved in the appeal", and therefore does not know which claims to list in the Claims Appendix pursuant to MPEP § 41.37.

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Due to this uncertainty, this Amended Appeal Brief includes two Claims Appendices: Claims Appendix A and Claims Appendix B. Claims Appendix A contains a copy of the claims as they currently stand (assuming that the Examiner refuses entry of the resubmitted amendments), while Claims Appendix B contains a copy of the claims incorporating the proposed amendments (assuming that the Examiner enters the resubmitted amendments). The Examiner is requested to disregard one of the two Appendices, depending on the Examiner's disposition of the amendments proposed in the Response to Advisory Action co-filed herewith.

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## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

The present invention relates to a distributed entertainment system (Claims 1-10, 25, 39-41, 44-48, 53, 87; Claims 35-38, 42, 51-52, 68-72, 89), a network entertainment unit (Claims 11-15, 54-60), a method for electronic entertainment (Claims 16-23, 61, 88), a content distribution system for distributing entertainment on a network (Claims 29-30, 32-34, 62-67), a method of operating an entertainment unit (Claims 90-94), and an entertainment unit for receiving entertainment content from a central resource (Claim 95).

As illustrated by Appellants' specification, beginning at page 7, line 10, to page 8, line 7, and in Figure 1, an exemplary distributed electronic entertainment system 100 includes a central management resource 102 which is connected to multiple entertainment venues through respective wide area network (WAN) connections. Each venue may have one of a variety of configurations of entertainment units. The entertainment unit 126 may be capable of a variety of functions, including playing music stored locally on entertainment unit 126 or stored remotely on central management resource 102, playing games, and Internet browsing. (Page 8, lines 2-4.) In a venue 108 containing multiple entertainment units 116-121, a primary entertainment unit 117 communicates directly with the central management resource 102 through WAN connection 123, while all of the entertainment units 116-121 communicate with each other through LAN 130 and with the central management resource 102 indirectly through the primary entertainment unit 117. (Page 9, lines 1-5.)

An exemplary entertainment unit 300 is shown in Figure 3 and described on page 10, line 1, through page 13, lines 19. A user interface 718 is provided to allow a user to interact



with and control the entertainment unit 300. (Page 12, lines 5-6.) A user may use the user interface 718 to select music or games to play on the entertainment unit. (Page 10, lines 10-19.) The entertainment unit 300 includes a variety of payment devices, such as a coin acceptor 720, a bill acceptor 706, and a credit card/smart card reader 708. (Page 11, lines 16-20.) An audio unit 710 includes audio hardware and software for playing music. (Page 11, line 20.) A user identification (ID) device 724 includes hardware and software for identifying a user. (Page 12, lines 17-18.)

Figure 8 shows another embodiment of an entertainment unit 1100, which includes a user interface 1006 that also allows the user to order food, beverages, or any other product or service provided by the venue. (Page 19, lines 4-5). A music selection GUI 1040 may be used by a user 1002 to choose to purchase a music selection. (Page 20, lines 1-7.)

The entertainment unit may be used by users to select music to be performed at the venue. (Page 20, line 9.) If the selected music file is not among the local music files 1016, the requested item is fetched from the central management resource 102. (Page 20, lines 9-11.) Figure 11 is a flow diagram showing an embodiment of a process of storing music on an entertainment unit in a venue. If a user's music selection is stored locally, it is played from the local storage. (Page 23, lines 16-20.) If the selection is not stored locally, a request is made over the WAN to the central management resource. (Page 23, lines 19-20.) The request is serviced by the central management resource and the selection is received, stored, and played at the venue. (Page 23, lines 20-21.)

Independent claim 1 recites: A distributed entertainment system (e.g., Fig. 7, ref. no. 1000; page 16, lines 4-22) comprising:

at least one entertainment unit (e.g., Fig. 1, ref. no. 126; page 7, line 10, to page 8, line 7; Fig. 8, ref. no. 1100; page 19, line 1, to page 21, line 10) couplable to a wide area network (WAN) (e.g., Fig. 7, ref. no. 930), the WAN being couplable to a central resource (e.g., Fig. 1, ref. no. 102; page 7, line 10, to page 8, line 7; Fig. 7, ref. no. 102; page 16, line 4, to page 18, line 20) having a central content storage module that stores entertainment content (e.g., Fig. 2, ref. no. 210; page 9, lines 10-15 -- text erroneously refers to "entertainment content 220" instead of "210"; Fig. 7, ref. no. 806; page 18, lines 3-13), and including a master list of entertainment content items (e.g., Fig. 7, ref. no. 802; page 16, lines 16-17; page 18, lines 11-13) available through the WAN, the at least one entertainment unit comprising:

a user interface, comprising at least one graphical user interface (GUI) (e.g., Fig. 8, ref. no. 1040; page 19, line 1, to page 21, line 5);

a local memory device that stores entertainment content (e.g., Fig. 8, ref. nos. 1016, 1018, 1118; page 20, line 1, to page 21, line 5);

a local list of the entertainment content stored on the local memory device (e.g., page 20, lines 9-16);

a user input device (e.g., page 10, lines 6-9; page 12, lines 9-14); and

wherein a user, through the user input device and the user interface, may view the master list and the local list of entertainment content items, and request an item from the master list or the local list, wherein if the requested item is not on the local list, the requested item is transferred to at least one of the at least one entertainment units and performed locally in response to the user request (e.g., page 23, lines 16-21).

Independent claim 11 recites: A network entertainment unit (e.g., Fig. 7, ref. no. 1000; page 16, lines 4-22), comprising:

a user interface, comprising at least one graphical user interface (GUI) displaying a list of entertainment content items stored remotely (e.g., Fig. 8, ref. no. 1040; page 19, line 1, to page 21, line 5);

a local memory device that stores entertainment content (e.g., Fig. 8, ref. nos. 1016, 1018, 1118; page 20, line 1, to page 21, line 5);

a user input device (e.g., page 10, lines 6-9; page 12, lines 9-14); and

content management logic to control the entertainment unit such that in response to receiving a request via the user input device for performance of an item from the list of entertainment content items not stored in the local memory device, retrieving the requested item via a WAN and performing the requested item locally in response to the request (e.g., page 23, lines 16-21).

Independent claim 16 recites: A method for electronic entertainment, comprising:

at an entertainment unit (e.g., Fig. 1, ref. no. 126; page 7, line 10, to page 8, line 7; Fig. 8, ref. no. 1100; page 19, line 1, to page 21, line 10) in a venue (Fig. 7, ref. no. 918; page 16, lines 4-7), the entertainment unit comprising a network interface for coupling to a WAN (e.g., Fig. 3, ref. no. 714; page 11, lines 2-3), receiving a request for an item of entertainment content from a user, wherein the request includes a selection from a list of entertainment content, the list including a master list of entertainment content stored in at least one location

on a network (e.g., Fig. 7, ref. no. 802; page 17, 5-15; page 18, lines 11-13) and a list of local content stored on a memory device on the entertainment unit (e.g., page 20, lines 9-16), the local content grouped according to a common characteristic (e.g., page 10, lines 10-21), but where the selection requests entertainment content not stored on the entertainment unit;

transmitting the request (e.g., Fig. 11, ref. no. 1508; page 23, lines 16-20) via the WAN to a central management resource remote from the venue (e.g., Fig. 1, ref. no. 102; page 7, line 10, to page 8, line 7; Fig. 7, ref. no. 102; page 16, line 4, to page 18, line 20);

supplying the requested entertainment content item to the entertainment unit from a memory device on the central management resource (e.g., Fig. 11, ref. no. 1510; page 18, lines 18-20; page 23, lines 16-20), wherein the entertainment content item comprises music or an electronic game (e.g., page 7, lines 2-9);

receiving the requested entertainment content item at the entertainment unit in the venue (e.g., Fig. 11, ref. no. 1510; page 23, lines 16-20); and

presenting the entertainment content item to the user upon successful delivery to the entertainment unit (e.g., Fig. 11, ref. no. 1510; page 23, lines 16-20).

Independent claim 29 recites: A content distribution system for distributing entertainment on a network, comprising:

a central resource coupled to the network (e.g., Fig. 1, ref. no. 102; page 7, line 10, to page 8, line 7; Fig. 7, ref. no. 102; page 16, line 4, to page 18, line 20), the central resource including a central storage unit (e.g., Fig. 2, ref no. 210; page 9, lines 10-15 -- text

erroneously refers to “entertainment content 220” instead of “210”; Fig. 7, ref. no. 806; page 18, lines 3-13), wherein the central storage unit stores entertainment content and a master list of entertainment content available on the network (e.g., Fig. 7, ref. no. 802; page 18, lines 11-13);

at least one electronic entertainment device coupled to the network (e.g., Fig. 1, ref. no. 126; page 7, line 10, to page 8, line 7; Fig. 8, ref. no. 1100; page 19, line 1, to page 21, line 10), the at least one electronic entertainment device including a local storage unit (e.g., Fig. 8, ref. nos. 1016, 1018, 1118; page 20, line 1, to page 21, line 5), a local cache, a user input device (e.g., page 10, lines 6-9; page 12, lines 9-14), and a user interface, wherein the user interface displays to a user a local list of entertainment content stored on the entertainment device and the master list of entertainment content available on the network (e.g., Fig. 8, ref. no. 1040; page 19, line 1, to page 21, line 5), and wherein in response to a selection of an entertainment content item received by the user input device, the at least one electronic entertainment device determines whether the selected entertainment content item is stored in the local storage unit (e.g., Fig. 11, ref. no. 1504; page 23, lines 16-20);

if the selected entertainment content is stored in the local storage unit of the electronic entertainment device, the selected entertainment content is performed on the electronic entertainment device from the local storage unit (e.g., Fig. 11, ref. no. 1506; page 23, 18-19); and

if the selected entertainment content is not stored in the local storage unit, the selected entertainment content is requested from the central resource over the network (e.g., Fig. 11, ref. no. 1508; page 23, lines 19-20), transferred to the electronic entertainment device (e.g.,

Fig. 11, ref. no. 1508; page 23, lines 20-21), and performed in response to the user request on the electronic entertainment device after being received (e.g., Fig. 11, ref. no. 1508; page 23, lines 20-21).

Independent claim 35 recites: A distributed entertainment system (e.g., Fig. 7, ref. no. 1000; page 16, lines 4-22), comprising:

a central resource (e.g., Fig. 1, ref. no. 102; page 7, line 10, to page 8, line 7; Fig. 7, ref. no. 102; page 16, line 4, to page 18, line 20) coupled to a wide area network (WAN) (e.g., Fig. 7, ref. no. 930), wherein the central resource includes a central content storage module that stores entertainment content (e.g., Fig. 2, ref. no. 210; page 9, lines 10-15 -- text erroneously refers to "entertainment content 220" instead of "210"; Fig. 7, ref. no. 806; page 18, lines 3-13), including a master list of entertainment content items available through the WAN (e.g., Fig. 7, ref. no. 802; page 16, lines 16-17; page 18, lines 11-13); and

at least one entertainment unit (e.g., Fig. 1, ref. no. 126; page 7, line 10, to page 8, line 7; Fig. 8, ref. no. 1100; page 19, line 1, to page 21, line 10) coupled to the WAN, the at least one entertainment unit comprising:

a user interface, comprising at least one graphical user interface (GUI) (e.g., Fig. 8, ref. no. 1040; page 19, line 1, to page 21, line 5);

a local memory device that stores a plurality of entertainment content items (e.g., Fig. 8, ref. nos. 1016, 1018, 1118; page 20, line 1, to page 21, line 5);

a local list of the entertainment content stored on the local memory device (e.g., page 20, lines 9-16);

a peripheral interface (e.g., Fig. 3, ref. no. 740; page 13, lines 3-11);

a user input device (e.g., page 10, lines 6-9; page 12, lines 9-14); and

content management logic (e.g., Fig. 7, ref. no. 920; page 17, line 6) configured to control the entertainment unit such that in response to a request via the user input device to perform an entertainment content item not stored in the local memory device (e.g., Fig. 11, ref. no. 1502; page 23, lines 16-20):

the entertainment unit requests the requested entertainment content item from the central resource (e.g., Fig. 11, ref. no. 1508; page 23, lines 19-20);

the entertainment unit receives the requested entertainment content item from the central resource (e.g., Fig. 11, ref. no. 1508; page 23, lines 20-21); and

the entertainment unit performs the requested entertainment content item (e.g., Fig. 11, ref. no. 1508; page 23, lines 20-21).

Independent claim 90 recites: A method of operating an entertainment unit comprising a network interface (e.g., Fig. 3, ref. no. 714; page 11, lines 2-3) and a local memory storing a plurality of locally stored entertainment content items (e.g., Fig. 8, ref. nos. 1016, 1018, 1118; page 20, line 1, to page 21, line 5), comprising:

providing a user interface allowing a user to search a list of entertainment content items available on the local memory and entertainment content items available from a central resource (e.g., Fig. 8, ref. no. 1040; page 10, lines 10-16; page 19, line 1, to page 21, line 5);

receiving via a user input device (e.g., page 10, lines 6-9; page 12, lines 9-14) a request from the user to perform an entertainment content item not stored on the local memory (e.g., Fig. 11, ref. no. 1502; page 23, lines 16-20); and

in response to the request, retrieving the requested entertainment content item from a central resource via the network interface and performing the requested entertainment content item (e.g., Fig. 11, ref. nos. 1508, 1510; page 23, lines 19-21).

Independent claim 95 recites: An entertainment unit (e.g., Fig. 7, ref. no. 1000; page 16, lines 4-22) for receiving entertainment content from a central resource (e.g., Fig. 1, ref. no. 102; page 7, line 10, to page 8, line 7; Fig. 7, ref. no. 102; page 16, line 4, to page 18, line 20) having a central content storage module that stores entertainment content items (e.g., Fig. 2, ref. no. 210; page 9, lines 10-15 -- text erroneously refers to "entertainment content 220" instead of "210"; Fig. 7, ref. no. 806; page 18, lines 3-13) and including a master list of entertainment content items (e.g., Fig. 7, ref. no. 802; page 16, lines 16-17; page 18, lines 11-13), the entertainment unit comprising:

a network interface (e.g., Fig. 3, ref. no. 714; page 11, lines 2-3);

a user interface (e.g., Fig. 8, ref. no. 1040; page 19, line 1, to page 21, line 5);

a user input device (e.g., page 10, lines 6-9; page 12, lines 9-14);



a memory comprising one or more digital storage devices (e.g., Fig. 3, ref. no. 702; page 10, lines 1-2) storing:

a local list of the plurality of entertainment content items stored locally in the memory (e.g., page 20, lines 9-16);

a master list of entertainment content items stored on the central resource (e.g., Fig. 7, ref. no. 802; page 17, 5-15; page 18, lines 11-13); and

content management logic (e.g., Fig. 7, ref. no. 920; page 17, line 6) for controlling the operation of the entertainment unit such that in response to receiving a request via the user input device for an entertainment content item not on the local list of entertainment content items, the requested entertainment content item is retrieved from the central resource via the network interface and performed locally in response to the request (e.g., Fig. 11, ref. nos. 1502, 1504, 1508, 1510; page 23, lines 16-21).

**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Whether claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-95 are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,751,672 ("Yankowski").

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## **VII. ARGUMENT**

The present application includes seven sets of claims, as listed in Table I below:

**Table I**

Set	Independent Claim	Dependent Claim(s)	Claimed Subject Matter
1	1	2-10, 25, 39-41, 44-48, 53, 87	Distributed entertainment system
2	11	12-15, 54-60	Network entertainment unit
3	16	17-23, 61, 88	Method for electronic entertainment
4	29	30, 32-34, 62-67	Content distribution system for distributing entertainment on a network
5	35	36-38, 42, 51-52, 68-72, 89	Distributed entertainment system
6	90	91-94	Method of operating an entertainment unit
7	95	None	Entertainment unit for receiving entertainment content from a central resource

**1. Rejection of Claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-95 under 35 U.S.C. § 103(a) in view of U.S. Patent No. 5,751,672 ("Yankowski")**

Claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-95 stand rejected under 35 USC § 103(a) as being unpatentable over Yankowski, U.S. Patent No. 5,751,672. The Examiner states, in part:

Yankowski discloses a distributed entertainment system, e.g., Figs. 4a-8, where a user may via computer, e.g. 32, access a local database, e.g. 128, a remote master database, e.g. 144, 350, or transfer a requested item via a network, e.g. 44, from the remote database to the entertainment system. Yankowski does not explicitly use the terms wide area network (WAN) or graphical user interface (GUI). However, Yankowski contemplates other systems, e.g. cols. 6-7, lines 64-3.

Appellants respectfully traverse the Examiner's rejection and submit that Yankowski fails to establish a *prima facie* case of obviousness of all of the independent claims 1, 11, 16, 29, 35, 90, and 95. In particular, Yankowski fails to teach or suggest the transfer of a requested entertainment content item (e.g., a song) from a central resource, and local performance of the item in response to the request.

Claim 1 recites, in part:

at least one entertainment unit couplable to a wide area network (WAN), the WAN being couplable to a central resource having a central content storage module that stores entertainment content, and including a master list of entertainment content items available through the WAN, the at least one entertainment unit comprising:

...

wherein a user, through the user input device and the user interface, may view the master list and the local list of entertainment content items, and request an item from the master list or the local list, wherein if the requested item is not on the local list, the requested item is transferred to at least one of the at least one entertainment units and performed locally in response to the user request. (Emphasis added.)

Yankowski fails to disclose that if the item requested by the user is not on the local list, the requested item is transferred to the entertainment unit and performed locally in response to the user request.

In contrast, Yankowski teaches, in part:

This invention relates generally to the field of audio and audio/video equipment including compact disc (CD) players. More particularly, this invention relates to a CD changer which can access a database which is user searchable and updated upon recognition of an unknown CD. (Col. 1, lines 6-10; emphasis added.)

Broadly speaking, the present invention provides a modem link to a remote database which a user can utilize in order to provide

information updates to a memory forming a part of a CD player. The system uses a "fingerprint" of a CD in order to search the remote database for information such as title, track names, artist, etc. Once the CD is identified, the information associated with the CD can be loaded into a local database so that the user can search for desired music, artists, etc. In addition, the information is loaded into the memory of a CD player so that discs stored in the CD player can be readily identified. This is especially useful for large capacity multiple CD players which are also used to store CDs. The user can further use the computer as a simplified control interface to search for selections, build play lists as well as enhance control of the playback operation. (Col. 2, lines 52-67; emphasis added.)

A method of updating a memory in an audio compact disc changer according to an aspect of the invention includes the steps of: reading an identifying portion of a compact disc which uniquely identifies the compact disc; comparing the identifying portion with identifying portions stored in a memory; querying a database residing outside the compact disc changer for the identifying portion of the disc if the identifying portion is not found in the memory; and downloading data from the database to the memory corresponding to the identifying portion. (Col. 4, lines 5-14; emphasis added.)

As illustrated in TABLE 1, the machine readable data available on the actual CD can be supplemented substantially by the addition of titles of each movement, CD title, Artist, etc. Those skilled in the art will also understand that the database can also include even more detailed information such as composer, producer, record label, as well as any other information which might be of value to the user. (Col. 7, lines 36-43; emphasis added.)

As recited in claim 1, if the item requested by the user is not on the local list, the requested item is transferred to the entertainment unit and performed locally in response to the user request. In contrast, Yankowski describes a system in which the requested item to be performed (e.g., a music track on a compact disc) already exists in the CD player. The remote database provides supplemental information related to the music on the CD already loaded in the CD player, such as the titles of each movement, CD title, artist, etc. Yankowski fails to

teach or suggest that the music track itself is transferred from the remote database to the CD player and performed locally in response to the user request.

For at least these reasons, Yankowski fails to establish a *prima facie* case of obviousness of claim 1 and its dependent claims 2-10, 25, 39-42, 44-48, 51-53, and 87.

Independent claim 11 recites, in part:

content management logic to control the entertainment unit such that in response to receiving a request via the user input device for performance of an item from the list of entertainment content items not stored in the local memory device, retrieving the requested item via a WAN and performing the requested item locally in response to the request. (Emphasis added.)

Yankowski fails to teach or suggest a system in which the requested item is retrieved via a WAN and performed locally in response to the request. As a result, Yankowski fails to establish a *prima facie* case of obviousness of claim 11 and its dependent claims 12-15, and 54-60.

Independent claim 16 recites, in part:

at an entertainment unit in a venue, the entertainment unit comprising a network interface for coupling to a WAN, receiving a request for an item of entertainment content from a user, wherein the request includes a selection from a list of entertainment content, the list including a master list of entertainment content stored in at least one location on a network and a list of local content stored on a memory device on the entertainment unit, the local content grouped according to

a common characteristic, but where the selection requests entertainment content not stored on the entertainment unit;

transmitting the request via the WAN to a central management resource remote from the venue;

supplying the requested entertainment content item to the entertainment unit from a memory device on the central management resource, wherein the entertainment content item comprises music or an electronic game;

receiving the requested entertainment content item at the entertainment unit in the venue; and

presenting the entertainment content item to the user upon successful delivery to the entertainment unit. (Emphasis added.)

Yankowski fails to teach or suggest a system in which the requested music or electronic game item is received at the entertainment unit and presented to the user in response to the request. As a result, Yankowski fails to establish a *prima facie* case of obviousness of claim 16 and its dependent claims 17-23, 61, and 88.

Independent claim 29 recites, in part:

at least one electronic entertainment device coupled to the network, the at least one electronic entertainment device including a local storage unit, a local cache, a user input device, and a user interface, wherein the user interface displays to a user a local list of entertainment content stored on the entertainment device and the master list of entertainment content available on the network, and wherein in response to a selection of an entertainment content item received by the user input device, the at least one electronic entertainment device determines whether the selected entertainment content item is stored in the local storage unit;

...

if the selected entertainment content is not stored in the local storage unit, the selected entertainment content is requested from the central resource over the network, transferred to the electronic entertainment device, and performed in response to the user request on

the electronic entertainment device after being received. (Emphasis added.)

Yankowski fails to teach or suggest a system in which the requested item is transferred to the electronic entertainment device and performed on the entertainment device in response to the request. As a result, Yankowski fails to establish a *prima facie* case of obviousness of claim 29 and its dependent claims 30, 32-34, and 62-67.

Independent claim 35 recites, in part:

content management logic configured to control the entertainment unit such that in response to a request via the user input device to perform an entertainment content item not stored in the local memory device:

the entertainment unit requests the requested entertainment content item from the central resource;

the entertainment unit receives the requested entertainment content item from the central resource; and

the entertainment unit performs the requested entertainment content item. (Emphasis added.)

Yankowski fails to teach or suggest a system in which the requested entertainment content item is requested from the central resource, received by the entertainment resource, and performed by the entertainment device. As a result, Yankowski fails to establish a *prima facie* case of obviousness of claim 35 and its dependent claims 36-38, 68-72, and 89.

Independent claim 90 recites, in part:



receiving via a user input device a request from the user to perform an entertainment content item not stored on the local memory; and

in response to the request, retrieving the requested entertainment content item from a central resource via the network interface and performing the requested entertainment content item. (Emphasis added.)

Yankowski fails to teach or suggest a system in which the requested entertainment content item is retrieved from the central resource and performed by the entertainment device. As a result, Yankowski fails to establish a *prima facie* case of obviousness of claim 90 and its dependent claims 91-94.

Independent claim 95 recites, in part:

content management logic for controlling the operation of the entertainment unit such that in response to receiving a request via the user input device for an entertainment content item not on the local list of entertainment content items, the requested entertainment content item is retrieved from the central resource via the network interface and performed locally in response to the request. (Emphasis added.)

Yankowski fails to teach or suggest a system in which the requested entertainment content item is retrieved from the central resource and performed locally in response to the request. As a result, Yankowski fails to establish a *prima facie* case of obviousness of claim 95.

Accordingly, Appellants respectfully request that the Board reverse the Examiner's rejection and allow the pending claims.

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Claims 2-3, 54, and 88 are not made obvious by Yankowski

Claims 2, 54, and 88 depend from independent claims 1, 11, and 16, respectively, and in addition to being allowable on the basis of that dependency, are also separately patentable over Yankowski. Each of these claims include a limitation directed to multiple entertainment units in the local venue or the presence of a Local Area Network (LAN) through which multiple entertainment units in the venue can communicate. Yankowski fails to teach or suggest such an arrangement and the Examiner has failed to establish a *prima facie* case of obviousness of these claims.

The methods and systems recited in claims 2, 54, and 88 can provide various advantages not provided by the cited art. For example, as described in the specification on page 9, lines 1-9, a venue may be provided with multiple entertainment units 116-121, which communicate with each other through a LAN 130. One of the entertainment units may serve as the primary entertainment unit 117, while the secondary entertainment units 116 and 118-121 can communicate with the central management resource 102 indirectly through the primary entertainment unit 117. These secondary entertainment units 116 and 118-121 can have more, less, or the same capabilities as those of the primary entertainment unit 117.

Claim 3 depends from claim 2 and is also not made obvious by Yankowski for at least the same reasons provided above with respect to claim 2.

Claim 7-10, 25, 53, and 87 are not made obvious by Yankowski

Claim 7 depends from independent claim 1, and in addition to being allowable on the basis of that dependency, is also separately patentable over Yankowski. . Claim 7 recites that

the central management resource comprises a monitoring module that monitors system components and collects and stores data related to system usage. Such a system is not taught or suggested by Yankowski and the Examiner has failed to establish a *prima facie* case of obviousness of these claims.

Claim 8-10, 25, 53, and 87 depend from claim 7 and are also not made obvious by Yankowski for at least the same reasons provided above with respect to claim 7.

Claims 8-9 are not made obvious by Yankowski

Claim 8 depends from independent claim 1, and in addition to being allowable on the basis of that dependency, is also separately patentable over Yankowski. Claim 8 recites, in part:

a master attract loop database that stores attract loops available to the at least one entertainment unit, wherein each of the attract loops comprise electronic data that may be displayed to show advertisements and activities that are available on the at least one entertainment unit.

Yankowski fails to teach or suggest such an arrangement and the Examiner has failed to establish a *prima facie* case of obviousness of these claims.

Claim 9 depends from claim 8 and is also not made obvious by Yankowski for at least the same reasons provided above with respect to claim 8.

Claims 15 and 25 are not made obvious by Yankowski

Claim 15 depends from independent claim 11, and claim 25 ultimately depends from independent claim 1. In addition to being allowable on the basis of that dependency, claims 15 and 25 are separately patentable over Yankowski.

Claim 15 recites, in part:

a game selection GUI through which the user may choose games from the list of entertainment content items stored remotely to be played locally.

Claim 25 recites, in part:

a master game database that stores information about games available to the at least one entertainment unit, wherein the master list of music and the information about games are included in the master list of entertainment content items available through the WAN.

Yankowski fails to teach or suggest such an arrangement and Appellants submit that the Examiner has failed to establish a *prima facie* case of obviousness of these claims.

Claims 17, 19, 51, 59, and 87 are not made obvious by Yankowski

Claims 17 and 19 depend from independent claim 16, claim 51 ultimately depends from independent claim 35, claim 59 depends from independent claim 11, and claim 87 ultimately depends from independent claim 1. In addition to being allowable on the basis of that dependency, claims 17, 19, 51, 59, and 87 are separately patentable over Yankowski.

Claim 17 recites, in part:

at the entertainment unit in the venue, receiving an input indicating an identity of the user;  
accessing a user account with the identity of the user; and

charging the user account for supplied entertainment content.

Claim 19 recites, in part:

at the entertainment unit, querying the user whether the user wishes to establish an identity;  
receiving an input from the user indicating the identity of the user;  
converting the input to a user identity;  
receiving charge account information from the user; and  
associating the user identity with the charge account information, wherein the input is selected from an alphanumeric identification, a thumbprint, and a facial image.

Claim 51 recites, in part:

at least one peripheral device comprises at least one user identification (ID) device selected from a thumbprint recognition device and a facial recognition device.

Claim 59 recites, in part:

at least one user identification (ID) device selected from a thumbprint recognition device and a facial recognition device.

Claim 87 recites, in part:

Claim 87 (previously presented): The distributed entertainment system of claim 8, further comprising a user database that stores information relating to previously established user accounts.

Yankowski fails to teach or suggest such an arrangement and Appellants submit that the Examiner has failed to establish a *prima facie* case of obviousness of these claims.

The use of user accounts and user identities can provide various advantages, such as those provided by the embodiment described on page 19, lines 10-16, which teaches, in part:

any stored information about the user may be accessed to make the interaction with the entertainment unit faster and more enjoyable. For example, the user may have account information stored that allows the entertainment unit to automatically debit a user account using for any charges incurred by the user in the venue using user account logic 1008. The user may also store preferences, such as game and music preferences. The user may also store data that the user wishes to see automatically displayed on the web browser, such as certain news reports and stock quotes.

Claim 18 depends from claim 17 and is also separately patentable over Yankowski for at least the same reasons provided above with respect to claim 17.

Claims 18, 22-23, and 37 are not made obvious by Yankowski

Claim 18 ultimately depends from independent claim 16, Claim 22 depends from independent claim 16, and claim 37 depends from independent claim 35. In addition to being allowable on the basis of that dependency, claims 18, 22, and 37 are separately patentable over Yankowski.

Claim 18 recites, in part:

receiving a request to purchase products available at the venue; and  
charging the user account for any requested products that are  
supplied to the user.

Claim 22 recites, in part:

receiving an indication from the user that the user wishes to  
purchase selected music from the list; and  
automatically accessing a web site that offers the selected music for  
sale.

Claim 37 recites, in part:

the user interface allows a user to purchase music and download the purchased music to a portable storage and play device.

Yankowski fails to teach or suggest purchasing functionality provided by claims 18, 22, and 37, and Appellants submit that the Examiner has failed to establish a *prima facie* case of obviousness of these claims.

Claim 23 depends from claim 22 and is also not made obvious by Yankowski for at least the same reasons provided above with respect to claim 8.

For the above reasons, Appellants request that the Board reverse the Examiner's rejection of Claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-95 under 35 U.S.C. § 103(a) over Yankowski.

## **CONCLUSION**

For the foregoing reasons, Appellants respectfully submit that all pending claims (i.e., Claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-95) are allowable over Yankowski. Accordingly, Appellants respectfully request the Board of Patent Appeals and Interferences to reverse the Examiner's rejections of Claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-95 under 35 U.S.C. § 103(a).

If the Examiner or the Board have any questions regarding the above, they are respectfully requested to telephone the undersigned Attorney for Applicants at 408-392-9250.

**EXPRESS MAIL LABEL NO.  
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Respectfully submitted,



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## **CLAIMS APPENDIX A**

In the event that the Examiner refuses entry of the amendments to claims 1, 68-71, and 89, as submitted in the Amendment After Appeal filed on July 28, 2005, and resubmitted in the Response to Advisory Action co-filed herewith, the pending claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-95 are as follows:

Claim 1 (previously presented): A distributed entertainment system comprising:

at least one entertainment unit couplable to a wide area network (WAN), the WAN being couplable to a central resource having a central content storage module that stores entertainment content, and including a master list of entertainment content items available through the WAN, the at least one entertainment unit comprising:

a user interface, comprising at least one graphical user interface (GUI);  
a local memory device that stores entertainment content;  
a local list of the entertainment content stored on the local memory device;  
a user input device; and

wherein a user, through the user input device and the user interface, may view the master list and the local list of entertainment content items, and request an item from the master list or the local list, wherein if the requested item is not on the local list, the requested item is transferred to at least one of the at least one entertainment units and performed locally in response to the user request.

Claim 2 (previously presented): The distributed entertainment system of claim 1, wherein the at least one entertainment unit comprises multiple entertainment units are coupled to each other via a local area network (LAN).

Claim 3 (previously presented): The distributed entertainment system of claim 2, wherein

each of the multiple entertainment units is coupled to the WAN.

Claim 4 (previously presented): The distributed entertainment system of claim 1, further comprising an infrared (IR) receiver/transmitter for transferring data and commands from the at least one entertainment unit and for receiving data and commands in the at least one entertainment unit.

Claim 5 (previously presented): The distributed entertainment system of claim 1, further comprising at least one payment device comprising a coin acceptor, a bill acceptor, or a credit card/smart card reader.

Claim 6 (original): The distributed entertainment system of claim 1, wherein the at least one entertainment unit further comprises an audio unit comprising audio speakers and hardware and software for playing music.

Claim 7 (previously presented): The distributed entertainment system of claim 1, further comprising a central management resource couplable to the at least one entertainment unit via the WAN, the central management resource comprising:  
a management module that performs administrative functions;  
a monitoring module that monitors system components and collects and stores data related to system usage; and  
a content delivery module that controls delivery of entertainment content from the central content storage module to the at least one entertainment unit.

Claim 8 (previously presented): The distributed entertainment system of claim 7, wherein the central management resource further comprises:  
master content management logic that manages entertainment content in the at least one entertainment unit;  
a master activity log that stores data regarding activity of the at least one entertainment unit; and

a master attract loop database that stores attract loops available to the at least one entertainment unit, wherein each of the attract loops comprise electronic data that may be displayed to show advertisements and activities that are available on the at least one entertainment unit.

Claim 9 (previously presented): The distributed entertainment system of claim 8, further comprising a content processing module comprising:  
recorded media comprising music data recorded in an electronic format on a medium;  
digital encoding hardware and software coupled to the recorded media that receives the music data, and digitally encodes the music to produce digitally encoded music data;  
an intermediate storage device coupled to the digital encoding hardware that receives and stores the digitally encoded music data; and  
compression hardware and software coupled to the intermediate storage device, wherein the compression hardware and software receives the digitally encoded music data, and compresses the digitally encoded music data.

Claim 10 (original): The distributed entertainment system of claim 9, wherein the music data includes music identifying information, music files, and album art.

Claim 11 (previously presented): A network entertainment unit, comprising:  
a user interface, comprising at least one graphical user interface (GUI) displaying a list of entertainment content items stored remotely;  
a local memory device that stores entertainment content;  
a user input device; and  
content management logic to control the entertainment unit such that in response to receiving a request via the user input device for performance of an item from the list of entertainment content items not stored in the local memory device, retrieving the requested item via a WAN and performing the requested item locally in response to the request.

Claim 12 (original): The network entertainment unit of claim 11, further comprising an infrared (IR) receiver/transmitter for transferring data and commands from the entertainment unit and for receiving data and commands in the entertainment unit.

Claim 13 (previously presented): The network entertainment unit of claim 11, further comprising at least one payment device selected from a coin acceptor; a bill acceptor; and a credit card/smart card reader.

Claim 14 (original): The network entertainment unit of claim 11, further comprising an audio unit comprising audio speakers and hardware and software for playing music.

Claim 15 (previously presented): The network entertainment unit of claim 11, wherein the at least one GUI comprises:  
a music selection GUI through which the user may choose music from the list of entertainment content items stored remotely to be played locally; and  
a game selection GUI through which the user may choose games from the list of entertainment content items stored remotely to be played locally.

Claim 16 (previously presented): A method for electronic entertainment, comprising:  
at an entertainment unit in a venue, the entertainment unit comprising a network interface for coupling to a WAN, receiving a request for an item of entertainment content from a user, wherein the request includes a selection from a list of entertainment content, the list including a master list of entertainment content stored in at least one location on a network and a list of local content stored on a memory device on the entertainment unit, the local content grouped according to a common characteristic, but where the selection requests entertainment content not stored on the entertainment unit;  
transmitting the request via the WAN to a central management resource remote from the venue;  
supplying the requested entertainment content item to the entertainment unit from a memory device on the central management resource, wherein the entertainment content item comprises music or an electronic game;  
receiving the requested entertainment content item at the entertainment unit in the venue; and  
presenting the entertainment content item to the user upon successful delivery to the entertainment unit.

Claim 17 (original): The method of claim 16, further comprising:  
at the entertainment unit in the venue, receiving an input indicating an identity of the user;  
accessing a user account with the identity of the user; and  
charging the user account for supplied entertainment content.

Claim 18 (original): The method of claim 17, further comprising:  
receiving a request to purchase products available at the venue; and  
charging the user account for any requested products that are supplied to the user.

Claim 19 (previously presented): The method of claim 16, further comprising:

at the entertainment unit, querying the user whether the user wishes to establish an identity;  
receiving an input from the user indicating the identity of the user;  
converting the input to a user identity;  
receiving charge account information from the user; and  
associating the user identity with the charge account information, wherein the input is selected from an alphanumeric identification, a thumbprint, and a facial image.

Claim 20 (original): The method of claim 16, further comprising receiving a request from the user to browse the World Wide Web (web) and in response, giving the user access to the web at the entertainment unit.

Claim 21 (original): The method of claim 16, further comprising maintaining an activity log that stores a record of activity on the entertainment unit, wherein the activity comprises requests and purchases by the user.

Claim 22 (original): The method of claim 16, further comprising:  
displaying to the user a list of available music, including graphical images;  
receiving an indication from the user that the user wishes to purchase selected music from the list; and  
automatically accessing a web site that offers the selected music for sale.

Claim 23 (original): The method of claim 22, further comprising downloading the selected music from the entertainment unit to a mobile user device using a wireless communication method.

Claim 24 (canceled)

Claim 25 (original): The distributed entertainment system of claim 7, wherein the central

management resource further comprises:

a master music information database that stores a master list of music available to the  
at least one entertainment unit; and

a master game database that stores information about games available to the at least  
one entertainment unit, wherein the master list of music and the information  
about games are included in the master list of entertainment content items  
available through the WAN.

Claims 26-28 (canceled)

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Claim 29 (previously presented): A content distribution system for distributing entertainment on a network, comprising:

- a central resource coupled to the network, the central resource including a central storage unit, wherein the central storage unit stores entertainment content and a master list of entertainment content available on the network;
- at least one electronic entertainment device coupled to the network, the at least one electronic entertainment device including a local storage unit, a local cache, a user input device, and a user interface, wherein the user interface displays to a user a local list of entertainment content stored on the entertainment device and the master list of entertainment content available on the network, and wherein in response to a selection of an entertainment content item received by the user input device, the at least one electronic entertainment device determines whether the selected entertainment content item is stored in the local storage unit;
- if the selected entertainment content is stored in the local storage unit of the electronic entertainment device, the selected entertainment content is performed on the electronic entertainment device from the local storage unit; and
- if the selected entertainment content is not stored in the local storage unit, the selected entertainment content is requested from the central resource over the network, transferred to the electronic entertainment device, and performed in response to the user request on the electronic entertainment device after being received.

Claim 30 (previously presented): The content distribution system of claim 29, wherein the entertainment content stored in the local storage unit is grouped by a common characteristic.

Claim 31 (canceled)

Claim 32 (previously presented): The content distribution system of claim 29, wherein the network comprises at least one local area network (LAN).



Claim 33 (previously presented): The content distribution system of claim 29, wherein the central resource further comprises master content management logic that manages distribution of entertainment content over the network, wherein said distribution comprises:

initially storing all of the entertainment content on the master list on the central storage unit; and

in response to a user request from an electronic entertainment unit for entertainment content, transferring the requested entertainment content to the electronic entertainment unit.

Claim 34 (original): The content distribution system of claim 29, wherein the at least one electronic entertainment unit includes an activity log that stores information regarding entertainment content usage and fee payment.

Claim 35 (previously presented): A distributed entertainment system, comprising:  
a central resource coupled to a wide area network (WAN), wherein the central resource includes a central content storage module that stores entertainment content, including a master list of entertainment content items available through the WAN; and  
at least one entertainment unit coupled to the WAN, the at least one entertainment unit comprising:  
a user interface, comprising at least one graphical user interface (GUI);  
a local memory device that stores a plurality of entertainment content items;  
a local list of the entertainment content stored on the local memory device;  
a peripheral interface;  
a user input device; and  
content management logic configured to control the entertainment unit such that in response to a request via the user input device to perform an entertainment content item not stored in the local memory device:  
the entertainment unit requests the requested entertainment content item from the central resource;  
the entertainment unit receives the requested entertainment content item from the central resource; and  
the entertainment unit performs the requested entertainment content item.

Claim 36 (previously presented): The distributed entertainment system of claim 35, wherein:  
the user interface allows a user to order at least one of food, beverages, or other product or service provided by a venue, to conduct e-commerce transactions, to browse the internet, to view video content, to view movies, to view television content, and to access a games selection GUI.

Claim 37 (previously presented): The distributed entertainment system of claim 35,

wherein:

the user interface allows a user to purchase music and download the purchased music to a portable storage and play device.

Claim 38 (previously presented): The distributed entertainment system of claim 35, wherein:

the local list of the entertainment content stored on the local memory device comprises entertainment content items from more than one entertainment unit in the local venue.

Claim 39 (previously presented): The distributed entertainment system of claim 1, further comprising the central resource and wherein the central resource is coupled to the WAN.

Claim 40 (previously presented): The distributed entertainment system of claim 39, further comprising the WAN.

Claim 41 (previously presented): The distributed entertainment system of claim 1, wherein the local memory device stores two or more sets of entertainment content grouped according to a common characteristic.

Claim 42 (previously presented): The distributed entertainment system of claim 38, further comprising at least one peripheral interface and at least one peripheral device coupled to the at least one entertainment unit via the at least one peripheral interface.

Claim 43 (canceled)

Claim 44 (previously presented): The distributed entertainment system of claim 1, further comprising a local cache capable of storing entertainment content requested from the central resource.

Claim 45 (previously presented): The distributed entertainment system of claim 44, wherein the item of entertainment content requested from the central resource is stored in the local cache and performed locally in response to the user request upon receipt from the central resource.

Claim 46 (previously presented): The distributed entertainment system of claim 1, wherein the item of entertainment content requested from the central resource is placed in queue to be performed locally in response to the user request upon receipt from the master list.

Claim 47 (previously presented): The distributed entertainment system of claim 1, wherein the item of entertainment content requested from the central resource is performed locally in response to the user request immediately upon receipt from the central resource.

Claim 48 (previously presented): The distributed entertainment system of claim 1, wherein each of the at least one entertainment units is couplable to a local area network (LAN).

Claims 49-50 (canceled)

Claim 51 (previously presented): The distributed entertainment system of claim 42, wherein at least one peripheral device comprises at least one user identification (ID) device selected from a thumbprint recognition device and a facial recognition device.

Claim 52 (previously presented): The distributed entertainment system of claim 42, wherein at least one peripheral device comprises a video unit comprising hardware and software for capturing and processing images.

Claim 53 (previously presented): The distributed entertainment system of claim 7, wherein the central management resource is coupled to the at least one entertainment unit via the WAN.

Claim 54 (previously presented): The network entertainment unit of claim 11, further comprising:

a local area network (LAN) interface through which the network entertainment unit may communicate with similar network entertainment units in a venue; and  
a WAN interface through which the network entertainment unit may communicate with a central management resource remote from the venue.

Claim 55 (previously presented): The network entertainment unit of claim 11, further comprising a local cache capable of storing the requested entertainment content item.

Claim 56 (previously presented): The network entertainment unit of claim 55, wherein the item of entertainment content requested from the master list is stored in the local cache and performed locally in response to the user request upon receipt via the WAN.

Claim 57 (previously presented): The network entertainment unit of claim 11, wherein the requested entertainment content item is placed in queue to be performed locally in response to the user request upon receipt.

Claim 58 (previously presented): The network entertainment unit of claim 11, wherein the requested entertainment content item is performed locally in response to the user request immediately upon receipt via the WAN.

Claim 59 (previously presented): The network entertainment unit of claim 11, further comprising at least one user identification (ID) device selected from a thumbprint recognition device and a facial recognition device.

Claim 60 (previously presented): The network entertainment unit of claim 11, further comprising a video unit comprising hardware and software for capturing and processing images.

Claim 61 (previously presented): The method of claim 16, further comprising the step of storing the requested entertainment content item in a local cache, the local cache being distinct from the memory device of the entertainment unit, prior to presenting the entertainment content to the user.

Claim 62 (previously presented): The content distribution system of claim 29, further comprising a local cache capable of storing entertainment content requested from the master list.

Claim 63 (previously presented): The content distribution system of claim 62, wherein the item of entertainment content requested from the master list is stored in the local cache and performed locally in response to the user request upon receipt from the master list.

Claim 64 (previously presented): The content distribution system of claim 29, wherein the item of entertainment content requested from the central resource is placed in queue to be performed locally in response to the user request upon receipt from the central resource.

Claim 65 (previously presented): The content distribution system of claim 29, wherein the item of entertainment content requested from the central resource is performed locally in response to the user request immediately upon receipt from the central resource.

Claim 66 (previously presented): The content distribution system of claim 32, wherein the network further comprises at least one wide area network (WAN).

Claim 67 (previously presented): The content distribution system of claim 33, wherein the distribution further comprises:  
determining whether a local storage unit of the electronic entertainment unit is full;  
and, if the local storage unit of the electronic entertainment unit is full, notifying the central resource.

Claim 68 (previously presented): The content distribution system of claim 35, further comprising a local cache capable of storing entertainment content requested from the central resource.

Claim 69 (previously presented): The content distribution system of claim 68, wherein the item of entertainment content requested from the central resource is stored in the local cache and performed locally in response to the user request upon receipt from the central resource.

Claim 70 (previously presented) The content distribution system of claim 35, wherein the item of entertainment content requested from the central resource is placed in queue to be performed locally in response to the user request upon receipt from the central resource.

Claim 71 (previously presented): The content distribution system of claim 35, wherein the item of entertainment content requested from the central resource is performed locally in response to the user request immediately upon receipt from the central resource.

Claim 72 (previously presented): The distributed entertainment system of claim 35, wherein the entertainment content on the central content storage module comprises at least one entertainment content item selected from the group consisting of music, games, television content, and art.

Claims 73-86 (canceled)

Claim 87 (previously presented): The distributed entertainment system of claim 8, further comprising a user database that stores information relating to previously established user accounts.

Claim 88 (previously presented): The method of claim 16, wherein the entertainment unit is coupled to a local area network (LAN) connected to different entertainment units in the venue, the method further comprising:  
in response receiving the request for entertainment content item, transmitting the request via the LAN to a different entertainment unit in the venue; and  
supplying the requested entertainment content to the entertainment unit from a memory device on the different entertainment unit.

Claim 89 (previously presented) The content distribution system of claim 35, wherein the plurality of entertainment content items stored on the local memory device comprises two or more sets of entertainment content items grouped according to a common characteristic.



Claim 90 (previously presented): A method of operating an entertainment unit comprising a network interface and a local memory storing a plurality of locally stored entertainment content items, comprising:  
providing a user interface allowing a user to search a list of entertainment content items available on the local memory and entertainment content items available from a central resource;  
receiving via a user input device a request from the user to perform an entertainment content item not stored on the local memory; and  
in response to the request, retrieving the requested entertainment content item from a central resource via the network interface and performing the requested entertainment content item.

Claim 91 (previously presented): The method of claim 90, further comprising:  
immediately upon retrieving the requested entertainment content item from the central resource, placing the requested entertainment content item in queue for local performance.

Claim 92 (previously presented): The method of claim 90, wherein:  
the requested entertainment content item comprises an audio file or a video file.

Claim 93 (previously presented): The method of claim 90, further comprising:  
prior to receiving the request to perform the entertainment content item, receiving payment from a user.

Claim 94 (previously presented): The method of claim 90, further comprising:  
providing the user interface to allow the user to search for entertainment content items by artist, song title, and album title.

Claim 95 (previously presented): An entertainment unit for receiving entertainment content from a central resource having a central content storage module that stores entertainment content items and including a master list of entertainment content items, the entertainment unit comprising:

a network interface;

a user interface;

a user input device;

a memory comprising one or more digital storage devices storing:

a local list of the plurality of entertainment content items stored locally in the memory;

a master list of entertainment content items stored on the central resource; and content management logic for controlling the operation of the entertainment unit such that in response to receiving a request via the user input device for an entertainment content item not on the local list of entertainment content items, the requested entertainment content item is retrieved from the central resource via the network interface and performed locally in response to the request.

## **CLAIMS APPENDIX B**

In the event that the Examiner allows entry of the amendments to claims 1, 68-71, and 89, as submitted in the Amendment After Appeal filed on July 28, 2005, and resubmitted in the Response to Advisory Action co-filed herewith, the pending claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-95 would be as follows:

Claim 1 (previously presented): A distributed entertainment system comprising:

at least one entertainment unit couplable to a wide area network (WAN), the WAN being couplable to a central resource having a central content storage module that stores entertainment content, and including a master list of entertainment content items available through the WAN, the at least one entertainment unit comprising:

a user interface, comprising at least one graphical user interface (GUI);  
a local memory device that stores entertainment content;  
a local list of the entertainment content stored on the local memory device;  
a user input device; and

wherein a user, through the user input device and the user interface, may view the master list and the local list of entertainment content items, and request an item from the master list or the local list, wherein if the requested item is not on the local list, the requested item is transferred to at least one of the at least one entertainment units and performed locally in response to the user request.

Claim 2 (previously presented): The distributed entertainment system of claim 1, wherein the at least one entertainment unit comprises multiple entertainment units are coupled to each other via a local area network (LAN).

Claim 3 (previously presented): The distributed entertainment system of claim 2, wherein

each of the multiple entertainment units is coupled to the WAN.

Claim 4 (previously presented): The distributed entertainment system of claim 1, further comprising an infrared (IR) receiver/transmitter for transferring data and commands from the at least one entertainment unit and for receiving data and commands in the at least one entertainment unit.

Claim 5 (previously presented): The distributed entertainment system of claim 1, further comprising at least one payment device comprising a coin acceptor, a bill acceptor, or a credit card/smart card reader.

Claim 6 (original): The distributed entertainment system of claim 1, wherein the at least one entertainment unit further comprises an audio unit comprising audio speakers and hardware and software for playing music.

Claim 7 (previously presented): The distributed entertainment system of claim 1, further comprising a central management resource couplable to the at least one entertainment unit via the WAN, the central management resource comprising:  
a management module that performs administrative functions;  
a monitoring module that monitors system components and collects and stores data related to system usage; and  
a content delivery module that controls delivery of entertainment content from the central content storage module to the at least one entertainment unit.

Claim 8 (previously presented): The distributed entertainment system of claim 7, wherein the central management resource further comprises:  
master content management logic that manages entertainment content in the at least one entertainment unit;  
a master activity log that stores data regarding activity of the at least one entertainment unit; and

a master attract loop database that stores attract loops available to the at least one entertainment unit, wherein each of the attract loops comprise electronic data that may be displayed to show advertisements and activities that are available on the at least one entertainment unit.

Claim 9 (previously presented): The distributed entertainment system of claim 8, further comprising a content processing module comprising:  
recorded media comprising music data recorded in an electronic format on a medium;  
digital encoding hardware and software coupled to the recorded media that receives the music data, and digitally encodes the music to produce digitally encoded music data;  
an intermediate storage device coupled to the digital encoding hardware that receives and stores the digitally encoded music data; and  
compression hardware and software coupled to the intermediate storage device, wherein the compression hardware and software receives the digitally encoded music data, and compresses the digitally encoded music data.

Claim 10 (original): The distributed entertainment system of claim 9, wherein the music data includes music identifying information, music files, and album art.

Claim 11 (previously presented): A network entertainment unit, comprising:  
a user interface, comprising at least one graphical user interface (GUI) displaying a list  
of entertainment content items stored remotely;  
a local memory device that stores entertainment content;  
a user input device; and  
content management logic to control the entertainment unit such that in response to  
receiving a request via the user input device for performance of an item from the  
list of entertainment content items not stored in the local memory device,  
retrieving the requested item via a WAN and performing the requested item  
locally in response to the request.

Claim 12 (original): The network entertainment unit of claim 11, further comprising an  
infrared (IR) receiver/transmitter for transferring data and commands from the  
entertainment unit and for receiving data and commands in the entertainment unit.

Claim 13 (previously presented): The network entertainment unit of claim 11, further  
comprising at least one payment device selected from a coin acceptor; a bill  
acceptor; and a credit card/smart card reader.

Claim 14 (original): The network entertainment unit of claim 11, further comprising an  
audio unit comprising audio speakers and hardware and software for playing music.

Claim 15 (previously presented): The network entertainment unit of claim 11, wherein the  
at least one GUI comprises:  
a music selection GUI through which the user may choose music from the list of  
entertainment content items stored remotely to be played locally; and  
a game selection GUI through which the user may choose games from the list of  
entertainment content items stored remotely to be played locally.

Claim 16 (previously presented): A method for electronic entertainment, comprising:  
at an entertainment unit in a venue, the entertainment unit comprising a network interface for coupling to a WAN, receiving a request for an item of entertainment content from a user, wherein the request includes a selection from a list of entertainment content, the list including a master list of entertainment content stored in at least one location on a network and a list of local content stored on a memory device on the entertainment unit, the local content grouped according to a common characteristic, but where the selection requests entertainment content not stored on the entertainment unit;  
transmitting the request via the WAN to a central management resource remote from the venue;  
supplying the requested entertainment content item to the entertainment unit from a memory device on the central management resource, wherein the entertainment content item comprises music or an electronic game;  
receiving the requested entertainment content item at the entertainment unit in the venue; and  
presenting the entertainment content item to the user upon successful delivery to the entertainment unit.

Claim 17 (original): The method of claim 16, further comprising:  
at the entertainment unit in the venue, receiving an input indicating an identity of the user;  
accessing a user account with the identity of the user; and  
charging the user account for supplied entertainment content.

Claim 18 (original): The method of claim 17, further comprising:  
receiving a request to purchase products available at the venue; and  
charging the user account for any requested products that are supplied to the user.

Claim 19 (previously presented): The method of claim 16, further comprising:

at the entertainment unit, querying the user whether the user wishes to establish an identity;  
receiving an input from the user indicating the identity of the user;  
converting the input to a user identity;  
receiving charge account information from the user; and  
associating the user identity with the charge account information, wherein the input is selected from an alphanumeric identification, a thumbprint, and a facial image.

Claim 20 (original): The method of claim 16, further comprising receiving a request from the user to browse the World Wide Web (web) and in response, giving the user access to the web at the entertainment unit.

Claim 21 (original): The method of claim 16, further comprising maintaining an activity log that stores a record of activity on the entertainment unit, wherein the activity comprises requests and purchases by the user.

Claim 22 (original): The method of claim 16, further comprising:  
displaying to the user a list of available music, including graphical images;  
receiving an indication from the user that the user wishes to purchase selected music from the list; and  
automatically accessing a web site that offers the selected music for sale.

Claim 23 (original): The method of claim 22, further comprising downloading the selected music from the entertainment unit to a mobile user device using a wireless communication method.

Claim 24 (canceled)

Claim 25 (original): The distributed entertainment system of claim 7, wherein the central



management resource further comprises:

a master music information database that stores a master list of music available to the  
at least one entertainment unit; and

a master game database that stores information about games available to the at least  
one entertainment unit, wherein the master list of music and the information  
about games are included in the master list of entertainment content items  
available through the WAN.

Claims 26-28 (canceled)

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Claim 29 (previously presented): A content distribution system for distributing entertainment on a network, comprising:

- a central resource coupled to the network, the central resource including a central storage unit, wherein the central storage unit stores entertainment content and a master list of entertainment content available on the network;
- at least one electronic entertainment device coupled to the network, the at least one electronic entertainment device including a local storage unit, a local cache, a user input device, and a user interface, wherein the user interface displays to a user a local list of entertainment content stored on the entertainment device and the master list of entertainment content available on the network, and wherein in response to a selection of an entertainment content item received by the user input device, the at least one electronic entertainment device determines whether the selected entertainment content item is stored in the local storage unit;
- if the selected entertainment content is stored in the local storage unit of the electronic entertainment device, the selected entertainment content is performed on the electronic entertainment device from the local storage unit; and
- if the selected entertainment content is not stored in the local storage unit, the selected entertainment content is requested from the central resource over the network, transferred to the electronic entertainment device, and performed in response to the user request on the electronic entertainment device after being received.

Claim 30 (previously presented): The content distribution system of claim 29, wherein the entertainment content stored in the local storage unit is grouped by a common characteristic.

Claim 31 (canceled)

Claim 32 (previously presented): The content distribution system of claim 29, wherein the network comprises at least one local area network (LAN).

Claim 33 (previously presented): The content distribution system of claim 29, wherein the central resource further comprises master content management logic that manages distribution of entertainment content over the network, wherein said distribution comprises:

initially storing all of the entertainment content on the master list on the central storage unit; and

in response to a user request from an electronic entertainment unit for entertainment content, transferring the requested entertainment content to the electronic entertainment unit.

Claim 34 (original): The content distribution system of claim 29, wherein the at least one electronic entertainment unit includes an activity log that stores information regarding entertainment content usage and fee payment.

Claim 35 (previously presented): A distributed entertainment system, comprising:  
a central resource coupled to a wide area network (WAN), wherein the central resource includes a central content storage module that stores entertainment content, including a master list of entertainment content items available through the WAN; and  
at least one entertainment unit coupled to the WAN, the at least one entertainment unit comprising:  
a user interface, comprising at least one graphical user interface (GUI);  
a local memory device that stores a plurality of entertainment content items;  
a local list of the entertainment content stored on the local memory device;  
a peripheral interface;  
a user input device; and  
content management logic configured to control the entertainment unit such that in response to a request via the user input device to perform an entertainment content item not stored in the local memory device:  
the entertainment unit requests the requested entertainment content item from the central resource;  
the entertainment unit receives the requested entertainment content item from the central resource; and  
the entertainment unit performs the requested entertainment content item.

Claim 36 (previously presented): The distributed entertainment system of claim 35, wherein:  
the user interface allows a user to order at least one of food, beverages, or other product or service provided by a venue, to conduct e-commerce transactions, to browse the internet, to view video content, to view movies, to view television content, and to access a games selection GUI.

Claim 37 (previously presented): The distributed entertainment system of claim 35,

wherein:

the user interface allows a user to purchase music and download the purchased music to a portable storage and play device.

Claim 38 (previously presented): The distributed entertainment system of claim 35, wherein:

the local list of the entertainment content stored on the local memory device comprises entertainment content items from more than one entertainment unit in the local venue.

Claim 39 (previously presented): The distributed entertainment system of claim 1, further comprising the central resource and wherein the central resource is coupled to the WAN.

Claim 40 (previously presented): The distributed entertainment system of claim 39, further comprising the WAN.

Claim 41 (previously presented): The distributed entertainment system of claim 1, wherein the local memory device stores two or more sets of entertainment content grouped according to a common characteristic.

Claim 42 (previously presented): The distributed entertainment system of claim 38, further comprising at least one peripheral interface and at least one peripheral device coupled to the at least one entertainment unit via the at least one peripheral interface.

Claim 43 (canceled)

Claim 44 (previously presented): The distributed entertainment system of claim 1, further comprising a local cache capable of storing entertainment content requested from the central resource.

Claim 45 (previously presented): The distributed entertainment system of claim 44, wherein the item of entertainment content requested from the central resource is stored in the local cache and performed locally in response to the user request upon receipt from the central resource.

Claim 46 (previously presented): The distributed entertainment system of claim 1, wherein the item of entertainment content requested from the central resource is placed in queue to be performed locally in response to the user request upon receipt from the master list.

Claim 47 (previously presented): The distributed entertainment system of claim 1, wherein the item of entertainment content requested from the central resource is performed locally in response to the user request immediately upon receipt from the central resource.

Claim 48 (previously presented): The distributed entertainment system of claim 1, wherein each of the at least one entertainment units is couplable to a local area network (LAN).

Claims 49-50 (canceled)

Claim 51 (previously presented): The distributed entertainment system of claim 42, wherein at least one peripheral device comprises at least one user identification (ID) device selected from a thumbprint recognition device and a facial recognition device.

Claim 52 (previously presented): The distributed entertainment system of claim 42, wherein at least one peripheral device comprises a video unit comprising hardware and software for capturing and processing images.

Claim 53 (previously presented): The distributed entertainment system of claim 7, wherein the central management resource is coupled to the at least one entertainment unit via the WAN.

Claim 54 (previously presented): The network entertainment unit of claim 11, further comprising:

a local area network (LAN) interface through which the network entertainment unit may communicate with similar network entertainment units in a venue; and  
a WAN interface through which the network entertainment unit may communicate with a central management resource remote from the venue.

Claim 55 (previously presented): The network entertainment unit of claim 11, further comprising a local cache capable of storing the requested entertainment content item.

Claim 56 (previously presented): The network entertainment unit of claim 55, wherein the item of entertainment content requested from the master list is stored in the local cache and performed locally in response to the user request upon receipt via the WAN.

Claim 57 (previously presented): The network entertainment unit of claim 11, wherein the requested entertainment content item is placed in queue to be performed locally in response to the user request upon receipt.

Claim 58 (previously presented): The network entertainment unit of claim 11, wherein the requested entertainment content item is performed locally in response to the user request immediately upon receipt via the WAN.

Claim 59 (previously presented): The network entertainment unit of claim 11, further comprising at least one user identification (ID) device selected from a thumbprint recognition device and a facial recognition device.

Claim 60 (previously presented): The network entertainment unit of claim 11, further comprising a video unit comprising hardware and software for capturing and processing images.

Claim 61 (previously presented): The method of claim 16, further comprising the step of storing the requested entertainment content item in a local cache, the local cache being distinct from the memory device of the entertainment unit, prior to presenting the entertainment content to the user.

Claim 62 (previously presented): The content distribution system of claim 29, further comprising a local cache capable of storing entertainment content requested from the master list.

Claim 63 (previously presented): The content distribution system of claim 62, wherein the item of entertainment content requested from the master list is stored in the local cache and performed locally in response to the user request upon receipt from the master list.

Claim 64 (previously presented): The content distribution system of claim 29, wherein the item of entertainment content requested from the central resource is placed in queue to be performed locally in response to the user request upon receipt from the central resource.

Claim 65 (previously presented): The content distribution system of claim 29, wherein the item of entertainment content requested from the central resource is performed locally in response to the user request immediately upon receipt from the central resource.

Claim 66 (previously presented): The content distribution system of claim 32, wherein the network further comprises at least one wide area network (WAN).



Claim 67 (previously presented): The content distribution system of claim 33, wherein the distribution further comprises:  
determining whether a local storage unit of the electronic entertainment unit is full;  
and, if the local storage unit of the electronic entertainment unit is full, notifying the central resource.

Claim 68 (previously presented): The distributed entertainment system of claim 35, further comprising a local cache capable of storing entertainment content requested from the central resource.

Claim 69 (previously presented): The distributed entertainment system of claim 68, wherein the item of entertainment content requested from the central resource is stored in the local cache and performed locally in response to the user request upon receipt from the central resource.

Claim 70 (previously presented) The distributed entertainment system of claim 35, wherein the item of entertainment content requested from the central resource is placed in queue to be performed locally in response to the user request upon receipt from the central resource.

Claim 71 (previously presented): The distributed entertainment system of claim 35, wherein the item of entertainment content requested from the central resource is performed locally in response to the user request immediately upon receipt from the central resource.

Claim 72 (previously presented): The distributed entertainment system of claim 35, wherein the entertainment content on the central content storage module comprises at least one entertainment content item selected from the group consisting of music, games, television content, and art.

Claims 73-86 (canceled)

Claim 87 (previously presented): The distributed entertainment system of claim 8, further comprising a user database that stores information relating to previously established user accounts.

Claim 88 (previously presented): The method of claim 16, wherein the entertainment unit is coupled to a local area network (LAN) connected to different entertainment units in the venue, the method further comprising:  
in response receiving the request for entertainment content item, transmitting the request via the LAN to a different entertainment unit in the venue; and  
supplying the requested entertainment content to the entertainment unit from a memory device on the different entertainment unit.

Claim 89 (previously presented) The distributed entertainment system of claim 35, wherein the plurality of entertainment content items stored on the local memory device comprises two or more sets of entertainment content items grouped according to a common characteristic.

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Claim 90 (previously presented): A method of operating an entertainment unit comprising a network interface and a local memory storing a plurality of locally stored entertainment content items, comprising:

providing a user interface allowing a user to search a list of entertainment content items available on the local memory and entertainment content items available from a central resource;

receiving via a user input device a request from the user to perform an entertainment content item not stored on the local memory; and

in response to the request, retrieving the requested entertainment content item from a central resource via the network interface and performing the requested entertainment content item.

Claim 91 (previously presented): The method of claim 90, further comprising:

immediately upon retrieving the requested entertainment content item from the central resource, placing the requested entertainment content item in queue for local performance.

Claim 92 (previously presented): The method of claim 90, wherein:

the requested entertainment content item comprises an audio file or a video file.

Claim 93 (previously presented): The method of claim 90, further comprising:

prior to receiving the request to perform the entertainment content item, receiving payment from a user.

Claim 94 (previously presented): The method of claim 90, further comprising:

providing the user interface to allow the user to search for entertainment content items by artist, song title, and album title.

Claim 95 (previously presented): An entertainment unit for receiving entertainment content from a central resource having a central content storage module that stores entertainment content items and including a master list of entertainment content items, the entertainment unit comprising:

a network interface;

a user interface;

a user input device;

a memory comprising one or more digital storage devices storing:

a local list of the plurality of entertainment content items stored locally in the memory;

a master list of entertainment content items stored on the central resource; and content management logic for controlling the operation of the entertainment unit such that in response to receiving a request via the user input device for an entertainment content item not on the local list of entertainment content items, the requested entertainment content item is retrieved from the central resource via the network interface and performed locally in response to the request.

**EVIDENCE APPENDIX**

None.

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**RELATED PROCEEDINGS APPENDIX**

None.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: Roger McAulay and Samuel Cohen  
Assignee: E-Cast, Inc.  
Title: Distributed Electronic Entertainment Method and Apparatus  
Application No.: 09/519,008 Filing Date: March 3, 2000  
Examiner: A. Rudy Group Art Unit: 3627  
Docket No.: M-15647 US Confirmation No.: 6539

San Jose, California  
November 14, 2005

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**RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

Dear Sir:

In response to the Notification of Non-Compliant Appeal Brief mailed on October 12, 2005, Appellant submits the following Remarks and the attached Amended Appeal Brief.

Because the date one month from the mailing of the Notification of Non-Compliant Appeal Brief falls on a Saturday (November 12, 2005), the deadline for submitting the corrected Appeal Brief is November 14, 2005.

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## REMARKS

On October 12, 2005, the Examiner issued a Notification of Non-Compliant Appeal Brief indicating that the Appeal Brief filed on August 2, 2005 (hereinafter referred to as "the Appeal Brief") is defective for failure to comply with one or more provisions of 37 CFR 41.37. Appellant notes that the Appeal Brief was filed on July 29, 2005, with a Certificate of Mailing. The Examiner's concerns are addressed below and in the attached Amended Appeal Brief (hereinafter referred to as "the Amended Appeal Brief").

### Item 3: 37 CFR 41.37(c)(1)(iv)

The Examiner has indicated that at least one amendment has been filed subsequent to the final rejection and the brief does not contain a statement of the status of each such amendment. In particular, the Examiner states:

3. No status of the Amendment After Final received July 26, 2005 by the USPTO has been received.

Page 2 of the Appeal Brief states, in part:

Appellant filed a response on April 8, 2005, in which no amendments were made to the claims. Subsequently, the Examiner issued an Advisory Action on May 6, 2005, in which the request for reconsideration was considered but the pending rejections maintained.

On July 28, 2005, an Amendment was filed amending Claims 1, 68-71, and 89. These amendments are filed to correct a typographical error in claim 1, and to correct various informalities in claims 68-71 and 89, in order to present the claims in better form for appeal. These amendments have not yet been entered. (Emphasis added.)

Appellant notes that the Amendment After Appeal was filed on July 28, 2005, not on July 26, 2005, as indicated by the Examiner (and the USPTO PAIR system). Attached is a



copy of the Express Mail label confirming that the date of Express Mail deposit was July 28, 2005.

Accordingly, Appellant submits that the Appeal Brief properly includes a statement of the status of all amendments to the claims, including the Amendment After Appeal filed on July 28, 2005.

Item 4: 37 CFR 41.37(c)(1)(v)

The Examiner has also indicated that the brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal. The Examiner states, in part:

No reference to the specification by page and line number and to the drawings by reference characters for each of the claims, including independent claims.

Appellant respectfully submits that Section V of the Appeal Brief properly provides reference to the specification by page and line number and to the drawings by reference characters, as required by 37 CFR § 41.37. Nevertheless, Appellant has added additional description in the Amended Appeal Brief to provide a more detailed explanation of the claimed subject matter, as requested by the Examiner.

Item 5: 37 CFR 41.37(c)(1)(vi)

The Examiner has indicated that the brief does not contain a concise statement of each ground of rejection presented for review. The Examiner states:

The second paragraph of item VI from the Brief is extraneous with regards to the ground of rejection.

The second paragraph of item VI of the Appeal Brief states as follows:

In the Advisory Action mailed May 6, 2005, the Examiner also brought U.S. Patent No. 4,232,295 ("McConnell") to the Appellant's attention, but did not specifically identify a ground of rejection based on McConnell.

Appellant was uncertain whether the Examiner had intended the McConnell reference to serve as a ground of rejection, and included the second paragraph in item VI for the sake of completeness. Based on the Examiner's comments, Appellant presumes that the McConnell reference does not serve as a ground of rejection and has deleted the second paragraph from item VI of the Amended Appeal Brief.

Appellant submits that the Amended Appeal Brief properly provides the concise statement of each ground of appeal, as required by 37 CFR 41.37(c)(1)(vi).

Item 7: 37 CFR 41.37(c)(1)(viii)

The Examiner has indicated that the brief does not contain a correct copy of the appealed claims as an appendix thereto.

As indicated in the Appeal Brief on page 2, the Amendment filed on July 28, 2005, had not yet been entered at the time that the Appeal Brief was filed. Therefore, at the time of filing the Appeal Brief, Appellant did not know which version of the claims would be involved in the appeal.

In an Advisory Action mailed October 13, 2005, the day after the mailing of the Notification of Non-Compliant Appeal Brief, the Examiner refused to enter the proposed amendments. In a Response to Advisory Action being co-filed herewith, Appellant requests reconsideration of the Examiner's refusal to enter the proposed amendments. Accordingly, Appellant again does not know which version of the claims will be involved in the appeal.

In order to resolve this uncertainty, the attached Amended Appeal Brief includes two Claims Appendices: Claims Appendix A and Claims Appendix B. Claims Appendix A contains a copy of the claims as they currently stand, while Claims Appendix B contains a copy of the claims incorporating the proposed amendments. The Examiner is requested to disregard one of the two Appendices, depending on the Examiner's disposition of the proposed amendments.

Item 8: 37 CFR 41.37(c)(1)(viii)

The Examiner has indicated that the brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the Examiner and relied upon by the Appellant in the appeal.

The Amended Appeal Brief includes an Evidence Appendix indicating that no such evidence exists.

**CONCLUSION**

For the foregoing reasons, Appellants respectfully submit that the Amended Appeal Brief co-filed herewith fully complies with 37 CFR 41.37.

If the Examiner or the Board have any questions regarding the above, they are respectfully requested to telephone the undersigned Attorney for Applicants at 408-392-9250.

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Respectfully submitted,



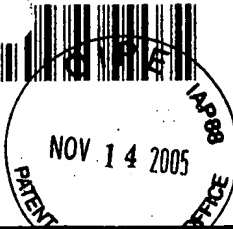
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